

**Notice of Allowability****Application No.**

10/804,847

**Applicant(s)**

MA ET AL.

**Examiner**

William P. Fletcher III

**Art Unit**

1792

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment filed March 12, 2007.
2. ☒ The allowed claim(s) is/are 1-28, 48, 50, 51, 53 and 54.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date 10/17/06 & 5/8/07
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Amendment***

1. The compliant amendment filed March 12, 2007, and the remarks filed December 18, 2006, are noted with appreciation.
2. Claims 1-48, 50, 51, 53, and 54, remain pending.

### ***Election/Restrictions***

3. Claims 26-47 remain withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on June 29, 2006.

### ***Information Disclosure Statement***

4. The information disclosure statements (IDS) submitted on October 17, 2006, and May 8, 2007, were filed after the mailing date of the first Office action on the merits on September 20, 2006. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

### ***Terminal Disclaimer***

5. The terminal disclaimer filed on January 4, 2008, disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of US 7,175,694 B2, has been reviewed and is accepted. The terminal disclaimer has been recorded.

### ***Response to Arguments***

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6. The objections and rejection under 35 USC 112, 1<sup>st</sup> Paragraph, set-forth in the prior Office action (09/20/2006) are withdrawn in view of Applicant's amendment.

#### **EXAMINER'S AMENDMENT**

7. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

The application has been amended as follows:

**Claims 26-47 (cancelled).**

#### ***Allowable Subject Matter***

8. Claims 1-25, 48, 50, 51, 53, and 54, are allowed.

9. The following is an examiner's statement of reasons for allowance: Hydrogen separation utilizing palladium alloys is known in the art as evidenced by Applicant's Information Disclosure Statements. Nevertheless, the prior art neither teaches nor suggests the claimed process in which first and second gas-selective materials are deposited on a porous substrate with an intermediate step of abrading the substrate coated with the first gas-selective material. The closest prior art referencing abrading in connection with deposition of a gas-selective, Pd-alloy coating layer is EP 1 208 904 A1, in which the porous substrate is abraded *prior to* the deposition of any gas-selective

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coating. The above Examiner's amendment merely cancels the claims previously non-elected without traverse.

The terminal disclaimer avoids obviousness-type double patenting rejections in view of at least claim 23 of US 7,175,694 B2.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William P. Fletcher III whose telephone number is (571) 272-1419. The examiner can normally be reached on Monday through Friday, 0900h-1700h.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy H. Meeks can be reached on (571) 272-1423. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

**/William Phillip Fletcher III/**

William Phillip Fletcher III

Primary Examiner

February 11, 2008